

Proposed technical correction:

SECTION #. G.S. 163-234 reads as rewritten:

"§ 163-234. Counting absentee ballots by county board of elections.

All absentee ballots returned to the county board of elections in the container-return envelopes shall be retained by the board to be counted by the county board of elections as ~~herein provided.~~ follows:

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. shall be counted, except to the extent federal law requires otherwise.

- (2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day and those received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, ~~provided so long as~~ the elector shall not in any manner interfere with the election officials in the discharge of their duties.

~~Provided, that the~~ The county board of elections ~~is authorized to~~ may begin counting absentee ballots issued under Article 21A of this Chapter between the hours of 9:00 ~~A.M.~~ a.m. and 5:00 ~~P.M.~~ p.m. and ~~to may~~ begin counting all absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election ~~wherein in which~~ the hour and place of counting absentee ballots shall be stated. ~~Such~~ The resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. as provided in subdivision (11) of this section. A copy of the ~~resolutions~~ resolution shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but ~~such the~~ notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section ~~shall prohibit~~ prohibits a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.



- (3) Notwithstanding ~~the provisions of~~ subdivision (2) of this section, a county board of elections may, at each meeting at which it approves absentee ballot applications pursuant to ~~G.S. 163-230.1(e) and (e1)~~, G.S. 163-230.1(e) and (f), remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner. The board shall complete the counting of these ballots at the times provided in subdivision (2) of this section. The State Board of Elections shall provide instructions to county boards of elections for executing this procedure, and the instructions shall be designed to ensure the accuracy of the count, the participation of board members of both parties, and the secrecy of the results before election day. This subdivision applies only in counties that use optical scan devices to count absentee ballots.
- (4) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and that fact is publicly declared and entered in the official minutes of the county board.
- (5) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (6) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated "Pollbook of Absentee Voters" the name of the absentee voter, or if the pollbook is computer-generated, the board shall check off the name. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot. The "Pollbook of Absentee Voters" shall also contain the names of all persons who voted under G.S. 163-227.2, 163-227.5, and 163-227.6, but those names may be printed by computer for inclusion in the pollbook.

After all ballots have been placed in the boxes, the counting process shall begin.

If one-stop ballots under G.S. 163-227.2, 163-227.5, and 163-227.6 are counted electronically, that count shall commence at the time the polls close. If one-stop ballots are paper ballots counted manually, that count shall commence at the same time as other absentee ballots are counted.

If a challenge transmitted to the board on canvass day by a chief judge is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).



As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required ~~herein~~, in this subdivision, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered ~~therein~~, in the pollbook. The county board of elections ~~shall be~~ is responsible for the safekeeping of the pollbook of absentee voters.

- (7) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163-227.2, 163-227.5, and 163-227.6.
- (8) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing ~~thereon~~ on the absentee abstract shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (9) In the event a political party does not have a member of the county board of elections present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of ~~said~~ the absent member, or a member of the party's county executive committee, is in attendance. ~~Such~~ The person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an "observer".
- (10) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot.
- ★ (11) The county board of elections shall meet after election day and prior to the date of canvass to determine ~~where~~ whether the container-return envelopes for absentee ballots received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. ~~has~~ have been properly executed. The county board of elections shall comply with the requirements of G.S. 163-230.1 for approval of applications. Any absentee ballots received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. shall be counted by the county board of elections on the day of canvass. The county board of elections ~~is also authorized to~~ may also meet following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)b. or c. upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section for the counting of ~~such~~ these absentee ballots." (1939, c. 159, ss. 8, 9; 1945, c. 758, s. 8; 1953, c. 1114; 1963, c. 547, s. 8; 1967, c. 775, s. 1; c. 851, s. 2; 1973, c. 536, s. 1; 1975, c. 798, s. 3; 1977, c. 469, s. 1; c. 626, s. 1; 1989, c. 93, s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 55; 1995, c. 243, s. 1; 1999-455, s. 14; 2005-159, s. 1; 2006-262, s. 1; 2009-537, s. 8(d); 2011-182, s. 7; 2017-6, s. 3; 2018-144, s. 3.4(k); 2018-146, s. 3.1(a), (b).)

Explanation: In addition to cleaning up the statutory language, this proposed technical correction does the following:

- Updates references to G.S. 163-231(b)(ii) or (iii) with references to G.S. 163-231(b)(2)b. or c. to conform to the reorganization of G.S. 163-231 by S.L. 2013-381, s. 4.4.
- Updates a reference to G.S. 163-230.1(c) and (c1) with a reference to G.S. 163-230.1(e) and (f) to conform to the current organization of G.S. 163-230.1. S.L. 2017-6 recodified G.S. 163-230.1 into a new Chapter 163A, but S.L. 2018-146 later re-recodified it back to its old location. During the recodification, the Codifier re-lettered subsections to eliminate complex subsection designations, e.g. (a1).
- Corrects a typographical error by replacing "where" with "whether" in the phrase "to determine where the container-return envelopes for absentee ballots . . . [have] been properly executed". This typographical error was enacted by S.L. 2009-537, s. 8(d). Please also see comparable language in G.S. 163-230.1(e).

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-381
HOUSE BILL 589**

AN ACT TO RESTORE CONFIDENCE IN GOVERNMENT BY ESTABLISHING THE VOTER INFORMATION VERIFICATION ACT TO PROMOTE THE ELECTORAL PROCESS THROUGH EDUCATION AND INCREASED REGISTRATION OF VOTERS AND BY REQUIRING VOTERS TO PROVIDE PHOTO IDENTIFICATION BEFORE VOTING TO PROTECT THE RIGHT OF EACH REGISTERED VOTER TO CAST A SECURE VOTE WITH REASONABLE SECURITY MEASURES THAT CONFIRM VOTER IDENTITY AS ACCURATELY AS POSSIBLE WITHOUT RESTRICTION, AND TO FURTHER REFORM THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

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SECTION 4.4. G.S. 163-231 reads as rewritten:

"§ 163-231. Voting absentee ballots and transmitting them to the county board of elections.

(a) Procedure for Voting Absentee Ballots. – In the presence of ~~a person~~two persons who ~~is~~are at least 18 years of age, and who ~~is~~are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter ~~shall~~shall do all of the following:

- (1) Mark the voter's ballots, or cause them to be marked by that person in the voter's presence according to the voter's ~~instruction~~instruction.
- (2) Fold each ballot separately, or cause each of them to be folded in the voter's ~~presence~~presence.
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in the voter's ~~presence~~presence.
- (4) Make the application printed on the container-return envelope according to the provisions of G.S. 163-229(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163-229(b).

- (5) Require those two persons in whose presence the voter marked that voter's ballots to sign the application and certificate as witnesses and to indicate those persons' addresses.

Alternatively to the prior paragraph of this subsection, any requirement for two witnesses shall be satisfied if witnessed by one notary public, who shall comply with all the other requirements of that paragraph. The notary shall affix a valid notarial seal to the envelope, and include the word "Notary Public" below his or her signature.

~~The person-persons~~ in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests ~~the person's~~ assistance and ~~the that~~ person is otherwise authorized by law to give assistance. ~~The person in whose presence the ballot was marked shall sign the application and certificate as a witness and shall indicate that person's address.~~ When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the county board of elections which issued the ballots.

(a1) Repealed by Session Laws 1987, c. 583, s. 1.

(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued ~~them those~~ ballots as follows:

- (1) All ballots issued under the provisions of ~~Articles 20~~this Article and Article 21A of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian and received by the county board not later than 5:00 p.m. on the day ~~before of~~ the statewide primary or general election or county bond election. Ballots issued under the provisions of Article 21A of this Chapter may also be electronically transmitted.
- (2) If ballots are received later than ~~that hour,~~the hour stated in subdivision (1) of this subsection, ~~they those~~ ballots shall not be accepted unless one of the following applies:

~~a.(i) federal~~ Federal law so requires, requires.

~~b.(ii) if~~ The ballots issued under ~~this Article 20 of this Chapter~~ are postmarked and that postmark is dated on or before by the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by ~~5:00 p.m., or 5:00 p.m.~~

~~c.(iii) if~~ The ballots issued under Article 21A of this Chapter are received by the county board of elections not later than the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163-182.5. ~~Ballots issued under Article 20 of this Chapter not postmarked by the day of the election shall not be accepted by the county board of elections.~~

(c) For purposes of this section, "Delivered in person" includes delivering the ballot to an election official at a one-stop voting site under G.S. 163-227.2 during any time that site is open for voting. The ballots shall be kept securely and delivered by election officials at that site to the county board of elections office for processing."

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SECTION 60.2. This Part is effective when it becomes law. Except as provided herein, the remainder of this act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 2:14 p.m. this 12th day of August, 2013

Previous Version of G.S. 163-230.1	Current Version of G.S. 163-230.1
<p>§ 163-230.1. Simultaneous issuance of absentee ballots with application.</p> <p>(a) A qualified voter who desires to vote by absentee ballot, or that voter's near relative or verifiable legal guardian, shall complete a request form for an absentee application and absentee ballots so that the county board of elections receives that completed request form not later than 5:00 P.M. on the Tuesday before the election. That completed written request form shall be in compliance with G.S. 163-230.2. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the completed request form, the county board of elections shall cause to be mailed to that voter a single package that includes all of the following:</p> <ol style="list-style-type: none"> (1) The official ballots that voter is entitled to vote. (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229. (3) Repealed by Session Laws 1999-455, s. 10. (4) An instruction sheet. <p>The ballots, envelope, and instructions shall be mailed to the voter by the county board's chairman,</p>	<p>§ 163-230.1. Simultaneous issuance of absentee ballots with application.</p> <p>(a) A qualified voter who desires to vote by absentee ballot, or that voter's near relative or verifiable legal guardian, shall complete a request form for an absentee application and absentee ballots so that the county board of elections receives that completed request form not later than 5:00 P.M. on the Tuesday before the election. That completed written request form shall be in compliance with G.S. 163-230.2. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the completed request form, the county board of elections shall cause to be mailed to that voter a single package that includes all of the following:</p> <ol style="list-style-type: none"> (1) The official ballots that voter is entitled to vote. (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229. (3) An instruction sheet. <p>The ballots, envelope, and instructions shall be mailed to the voter by the county board's chairman, member, officer, or employee as determined by the</p>

<p>member, officer, or employee as determined by the board and entered in the register as provided by this Article.</p> <p>(a1) Absence for Sickness or Physical Disability. – Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make the request under subsection (a) of this section in person to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the day before the election. The county board of elections shall treat that completed request form in the same manner as a request under subsection (a) of this section but may personally deliver the application and ballots to the voter or that voter's near relative or verifiable legal guardian.</p> <p>(a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When the county board of elections receives a completed request form for applications and absentee ballots, the board shall promptly issue and transmit them to the voter in accordance with the following instructions:</p> <p>(1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words "Absentee Ballot No. ____ " or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee</p>	<p>board and entered in the register as provided by this Article.</p> <p>(b) Absence for Sickness or Physical Disability. – Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make the request under subsection (a) of this section in person to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the day before the election. The county board of elections shall treat that completed request form in the same manner as a request under subsection (a) of this section but may personally deliver the application and ballots to the voter or that voter's near relative or verifiable legal guardian.</p> <p>(c) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When the county board of elections receives a completed request form for applications and absentee ballots, the board shall promptly issue and transmit them to the voter in accordance with the following instructions:</p> <p>(1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words "Absentee Ballot No. ____ " or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board</p>
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<p>voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.</p> <p>(2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.</p> <p>(3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and mail it at the expense of the county board of elections: Provided, that in case of a request received after</p>	<p>of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.</p> <p>(2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.</p> <p>(3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and mail it at the expense of the county board of elections: Provided, that in case of a request received after 5:00 p.m. on the Tuesday</p>
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<p>5:00 p.m. on the Tuesday before the election under the provisions of subsection (a1) of this section, in lieu of transmitting the ballots to the voter in person or by mail, the chair, member, officer, or employee of the board of elections may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative or verifiable legal guardian of the voter.</p> <p>The county board of elections may receive completed written request forms for applications at any time prior to the election but shall not mail applications and ballots to the voter or issue applications and ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election, except as provided in G.S. 163-227.2. No election official shall issue applications for absentee ballots except in compliance with this Article.</p> <p>(b) The application shall be completed and signed by the voter personally, the ballots marked, the ballots sealed in the container-return envelope, and the certificate completed as provided in G.S. 163-231.</p> <p>(c) At its next official meeting after return of the completed container-return envelope with the voter's ballots, the county board of elections shall determine whether the container-return envelope has been properly executed. If the board determines that the container-return envelope has been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.</p> <p>(c1) Required Meeting of County Board of Elections. – During the period commencing on the third Tuesday before an election, in which absentee</p>	<p>before the election under the provisions of subsection (b) of this section, in lieu of transmitting the ballots to the voter in person or by mail, the chair, member, officer, or employee of the board of elections may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative or verifiable legal guardian of the voter.</p> <p>The county board of elections may receive completed written request forms for applications at any time prior to the election but shall not mail applications and ballots to the voter or issue applications and ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election, except as provided in G.S. 163-227.2, 163-227.5, and 163-227.6. No election official shall issue applications for absentee ballots except in compliance with this Article.</p> <p>(d) The application shall be completed and signed by the voter personally, the ballots marked, the ballots sealed in the container-return envelope, and the certificate completed as provided in G.S. 163-231.</p> <p>(e) At its next official meeting after return of the completed container-return envelope with the voter's ballots, the county board of elections shall determine whether the container-return envelope has been properly executed. If the board determines that the container-return envelope has been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.</p> <p>(f) Required Meeting of County Board of Elections. – During the period commencing on the third Tuesday before an election, in which absentee</p>
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ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was "Approved" or "Disapproved".

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

(d) Repealed by Session Laws 1999-455, s. 10.

(e) The State Board of Elections, by rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(f) For the purpose of this Article, "near relative" means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild. (1983, c. 304, s. 1; 1985, c. 759, ss. 5.1-5.5; 1991, c. 727, s. 6.3; 1993, c. 553, s. 67; 1995, c. 243, s. 1; 1999-455, s. 10; 2001-337, s. 3; 2002-159, s. 55(m); 2009-537, s. 5; 2013-381, s. 4.2.)

ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was "Approved" or "Disapproved".

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

(g) The State Board of Elections, by rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(h) For the purpose of this Article, "near relative" means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild. (1983, c. 304, s. 1; 1985, c. 759, ss. 5.1-5.5; 1991, c. 727, s. 6.3; 1993, c. 553, s. 67; 1995, c. 243, s. 1; 1999-455, s. 10; 2001-337, s. 3; 2002-159, s. 55(m); 2009-537, s. 5; 2013-381, s. 4.2; 2017-6, s. 3; 2018-144, s. 3.4(i); 2018-146, s. 3.1(a), (b).)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-537
SENATE BILL 253**

AN ACT TO MAKE IMPROVEMENTS TO THE ABSENTEE VOTING LAWS, ESPECIALLY
TO IMPROVE THE ABILITY OF MILITARY AND OVERSEAS VOTERS TO CAST
TIMELY BALLOTS.

The General Assembly of North Carolina enacts:

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SECTION 8.(d) G.S. 163-234 reads as rewritten:

"§ 163-234. Counting absentee ballots by county board of elections.

All absentee ballots returned to the county board of elections in the container-return envelopes shall be retained by the board to be counted by the county board of elections as herein provided.

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted, except to the extent federal law requires otherwise.
- (2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election ~~day.~~ day and those received pursuant to G.S. 163-231(b)(ii) or (iii). Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided the elector shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. Such resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) as provided in subdivision (10) of this section. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section shall

prohibit a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.

- (2a) Notwithstanding the provisions of subdivision (2) of this section, a county board of elections may, at each meeting at which it approves absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1), remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner. The board shall complete the counting of these ballots at the times provided in subdivision (2) of this section. The State Board of Elections shall provide instructions to county boards of elections for executing this procedure, and the instructions shall be designed to ensure the accuracy of the count, the participation of board members of both parties, and the secrecy of the results before election day. This subdivision applies only in counties that use optical scan devices to count absentee ballots.
- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and that fact is publicly declared and entered in the official minutes of the county board.
- (4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated "Pollbook of Absentee Voters" the name of the absentee voter, or if the pollbook is computer-generated, the board shall check off the name. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot. The "Pollbook of Absentee Voters" shall also contain the names of all persons who voted under G.S. 163-227.2, but those names may be printed by computer for inclusion in the pollbook.

After all ballots have been placed in the boxes, the counting process shall begin.

If one-stop ballots under G.S. 163-227.2 are counted electronically, that count shall commence at the time the polls close. If one-stop ballots are paper ballots counted manually, that count shall commence at the same time as other absentee ballots are counted.

If a challenge transmitted to the board on canvass day by a chief judge is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein.

The county board of elections shall be responsible for the safekeeping of the pollbook of absentee voters.

- (6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163-227.2.
- (7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (8) In the event a political party does not have a member of the county board of elections present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an "observer."
- (9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot.
- (10) The county board of elections shall meet after election day and prior to the date of canvass to determine where the container-return envelopes for absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) has been properly executed. The county board of elections shall comply with the requirements of G.S. 163-230.1 for approval of applications. Any absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted by the county board of elections on the day of canvass. The county board of elections is also authorized to meet following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section for the counting of such absentee ballots."

...

SECTION 11. This act becomes effective January 1, 2010, and applies with respect to elections held on or after that date.

In the General Assembly read three times and ratified this the 6th day of August, 2009.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:10 a.m. this 28th day of August, 2009